

## HUMAN SERVICES BOARD

# INTRODUCTION

## FINDINGS OF FACT

Please return your completed forms by January 1, 2010 so that we have enough time to process your review before January 15, 2010. If a review is not completed, your health care coverage will end.

2. Having not heard from the petitioner, the Department sent her a **Second Reminder Notice** on January 5, 2010 that included the following:

Without your review form, we cannot find out if you are still eligible for health care coverage. If you do not return your review form by January 15, 2010, we cannot complete a review and health care coverage will end on January 31, 2010. . .

3. On January 19, 2010, having still not heard from the petitioner, the Department sent her a **Health Care Closure Notice** advising her that her "health care eligibility will end on January 31, 2010". The notice included a prominent and detailed explanation of the petitioner's right to appeal.

4. On February 17, 2010, the petitioner's daughter called the Department to inquire about the petitioner's coverage. That same day she faxed an application to the Department on the petitioner's behalf. Also that same day, following its receipt of that application, the Department, at the daughter's request, sent the daughter a notice advising that the petitioner "may now sign up for a Catamount Health plan", that her "next step is to choose a Catamount Health Plan", and that "you will receive a separate letter with important information about the enrollment process".

5. That same day the petitioner also requested a fair hearing before the Human Services Board.

6. On February 22, 2010, the Department sent the petitioner a **Plan Sign-Up Authorization** (PSL) notice. The notice included the following in bold type:

**You must sign up for one of the plans by 3/24/2010 if you want the state to help pay for the plan. . .**

**You do not have coverage until the effective date of your enrollment. This is usually the first day of the month after you have enrolled. You will get a notice telling you your effective date.**

7. On March 1, 2010 the petitioner's daughter called the Department, which informed her that the petitioner had not yet chosen a plan. On March 2, the Department received the petitioner's plan sign up (PSL) documents. On March 3, 2010, the Department sent the petitioner a notice that she had been found eligible for CHAP effective April 1, 2010.

8. At the fair hearing in this matter the petitioner, through her daughter, disputed the lapse in her coverage for the months of February and March 2010. She has been advised that her mother can apply for Medicaid, which, if she is found eligible, can include retroactive coverage back to February 1, 2010.

9. The petitioner, through her daughter, has specifically declined to raise a capacity argument regarding

her ability to understand and failure to respond to the Department's notices.

ORDER

The Department's decision is affirmed.

REASONS

The petitioner does not dispute that the Department clearly and timely notified her of all her filing deadlines and of the consequences if she did not comply. Nor does she dispute that the Department's actions terminating her CHAP coverage were in accord with the pertinent regulations. See W.A.M. § 5922B. She takes issue, however, with the fact that the Department did not find her eligible for CHAP until April 1, 2010, nearly a month after she had returned her plan sign-up forms on March 2, 2010.

W.A.M. § 5924.4(D) provides: *"If the CHAP PSL and premium payment are timely received, OVHA will initiate payment of CHAP. Coverage begins on the start date indicated on the PSL."* As noted above, the PSL that was sent to the petitioner on February 22, 2010 stated that the effective date of enrollment is *"usually the first day of the month after you have enrolled"*. As also noted above, the petitioner did not enroll until March 2, 2010. In light of

this, it cannot be concluded that the Department's decision finding the petitioner eligible for CHAP as of April 1, 2010 was not in accord with the pertinent regulations. Perhaps the Department *could have*, under the regulations, effectuated coverage sooner, but there is no basis in the regulations to conclude that it was *required* to do so. Although unusual, it appears that the intent of the regulations is to allow the Department some discretion in the timing of CHAP eligibility decisions to begin at the beginning of each calendar month as a matter of administrative efficiency.

Inasmuch as the Department's decision in this matter was in accord with the pertinent regulations the Board is bound to affirm. 3 V.S.A. § 3091(d), Fair Hearing Rule 1000.4D.

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